

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

April 22, 2003

RESPONSIBLE STAFF:

Erica Shingara, Environmental
Specialist

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
X	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item
is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:

Resolution of the Mayor and City Council Approving a Waiver of the Environmental Standards for Development Regulation to Permit a Public Greenway Path, Sanitary Sewer Connection, Two Stormwater Outfalls, Extension of Storm Drains, and a Stormwater Management Infiltration Trench within the Stream Valley Buffer at Hidden Creek- Land Bay III.

SUPPORTING BACKGROUND:

Hidden Creek Land Bay III is requesting that the Mayor and Council grant a waiver of the Environmental Standards for Development Regulation to Permit a Public Greenway Path, Sanitary Sewer Connection, two Stormwater Outfalls, Extension of Storm Drains, and a Stormwater Management Infiltration Trench within the Stream Valley Buffer at Hidden Creek- Land Bay III.

According to the adopted Environmental Standards for Development Regulation, any intrusion into the stream buffer may only be approved by a waiver granted by the Mayor and City Council. Staff has worked with the applicant to minimize the disturbance within the buffer and to ensure that the request complies with the waiver criteria:

- The SWM infiltration trench will be provided if soil conditions permit in order to promote groundwater recharge to meet State stormwater standards and will be located in an area without any existing trees.
- The public pathway serves the public good and has been field located to minimize disturbance to existing trees, wetlands, and slopes.
- The sewer connection is necessary and reasonable alternatives outside the buffer do not exist. Therefore, the applicant has field located the connection to minimize disturbance to existing trees, slopes, and the stream.
- The stormwater outfalls and storm drain extensions are necessary to safely convey water to the stream.

In order to compensate for the disturbance within the buffer, the applicant will provide reforestation at a ratio 2:1 for the buffer area disturbed by the stormwater management outfalls and the sanitary sewer connection.

Attachments:

- Resolution
- Environmental Waiver Application

DESIRED OUTCOME:

Adopt Resolution Approving Environmental Waiver.

Resolution No. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING A WAIVER OF THE ENVIRONMENTAL STANDARDS FOR DEVELOPMENT REGULATION TO PERMIT A PUBLIC GREENWAY PATH, SANITARY SEWER CONNECTION, TWO STORMWATER OUTFALLS, EXTENSION OF STORM DRAINS, AND A STORMWATER MANAGEMENT INFILTRATION TRENCH WITHIN THE STREAM VALLEY BUFFER AT HIDDEN CREEK- LAND BAY III.

WHEREAS, the Environmental Standards for Development Regulation was adopted by the Mayor and City Council on November 19, 2001, providing the Mayor and City Council the authority to grant a waiver; and

WHEREAS, staff has reviewed the proposed waiver and determined that this circumstance warrants a waiver because the public interest benefits outweigh the risks to the environment and the proposed mitigation measures will outweigh the disturbance to the stream valley buffer:

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, that the request for a waiver of the Environmental Standards for Development Regulation to permit a public greenway path, sanitary sewer connection, two stormwater outfalls, extension of storm drains, and a stormwater management infiltration trench within the stream valley buffer at Hidden Creek- Land Bay III is hereby approved subject to the following conditions:

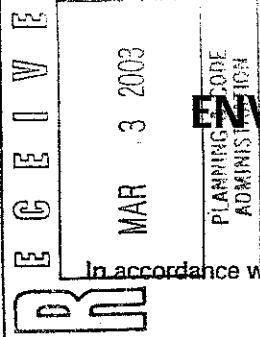
1. Clearing, grading, and other disturbances to the stream valley buffer and the stream shall be limited to the minimum necessary for construction and equipment operations.
2. Upon completion of construction, all disturbed areas shall be properly stabilized as soon as practicable and the stream channel and buffer shall be returned as nearly as possible to natural conditions.
3. In order to compensate for the disturbance within the buffer, the Applicant will provide additional reforestation at a ratio 2:1 for the stream valley buffer area disturbed for the stormwater management outfalls and the sanitary sewer outfall.

ADOPTED by the Mayor and City Council this 22nd day of April, 2003.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in public meeting assembled on the 22nd day of April, 2003.

David B. Humpton, City Manager



ENVIRONMENTAL STANDARDS WAIVER APPLICATION

In accordance with the Environmental Standards for Development Regulation
(Regulation No. 01-01)

All information requested in this application must be answered completely.

Application No. SDP-01-006
 Fee paid
 Date Filed 3/03/03
 P&CA Review Date _____
 DPW&E Review Date _____
 PC Review Date _____
 PC Action _____
 M&CC Review Date _____
 M&CC Decision _____
 Decision Date _____

PROJECT NAME HIDDEN CREEK, LAND BAY III
 LOCATION 55.0± AC. PARCEL BETWEEN GOSHEN RD., GIRARD ST. AND CITY PARK "PARCEL H"
 MARYLAND GRID COORDINATES CENTROID 541438 FT NORTH 1258740 FT EAST _____
 PARCEL NUMBER 886 PROPERTY TAX ID 09-03346148 ZONE MXD
 MARYLAND SUBWATERSHED # ☐ MUDDY BRANCH ☒ GREAT SENECA ☐ OTHER _____
 # 02140202 # 02140208 # _____
 APPLICANT HIDDEN CREEK I, LLC., SANDLER AT HIDDEN CREEK, LLC., HIDDEN CREEK II, LLC.,
'S CHURCHILL DEVELOPMENT CORP. TELEPHONE 301-987-2259
 ADDRESS C/O CENTEX HOMES 9007 SHADY GROVE CT. GAITHERSBURG, MD. 20877
 CONTACT PERSON MR. ROBERT LARKIN TELEPHONE 301-987-2259
 OWNER HIDDEN CREEK I, LLC., SANDLER AT HIDDEN CREEK, LLC., HIDDEN CREEK II, LLC.
'S CHURCHILL DEVELOPMENT CORP. TELEPHONE 301-987-2259
 ADDRESS C/O CENTEX HOMES 9007 SHADY GROVE CT. GAITHERSBURG, MD. 20877

NATURE OF WAIVER REQUEST

The size of the site: 55.0± AC. The size of the area impacted by the waiver: 4.6 AC. *

Environmentally sensitive areas impacted by the waiver:

- | | |
|--|--|
| <input type="checkbox"/> streams/floodplains | <input type="checkbox"/> wetlands |
| <input type="checkbox"/> headwaters | <input type="checkbox"/> wetland buffers |
| <input checked="" type="checkbox"/> stream buffers | <input type="checkbox"/> forest |
| <input type="checkbox"/> cultural resources | <input type="checkbox"/> specimen trees |

- * 1.5 AC. WITHIN FLOOD PLAIN.
 PROP. FILL OF LESS THAN 600 C.Y. IN FLOOD PLAIN
- | |
|---|
| <input type="checkbox"/> rare/threatened/endangered/watchlist species |
| <input type="checkbox"/> critical habitat |
| <input type="checkbox"/> erodible/unsuitable soils |
| <input type="checkbox"/> other |

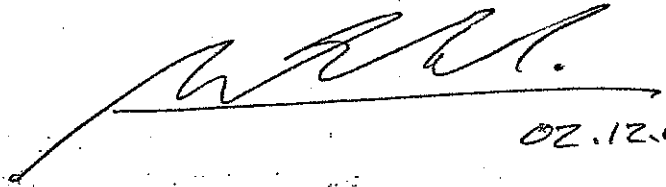
The current level of stream quality (according to the most recent stream assessment): PER MRSAT, MARCH 1996
FAIR TO GOOD WATER QUALITY

Briefly describe the nature of the waiver: SWM OUTFALL PIPES AND SANITARY SEWER OUTFALL PIPE
CONNECTING TO EX. WSSC TRUNK LINE. SWM INFILTRATION TRENCH AND GREEN TRAIL PATH.

Identify any potential hazards and/or downstream impacts: NONE

Describe the current and proposed land use of the area impacted by the waiver: EXISTING LAND IS UNDISTURBED.
THE PROPOSED USE WILL TEMPORARILY EXCAVATE FOR PIPE INSTALLATION AND RESTORE TO EX. CONDITIONS.

- SANITARY SEWER OUTFALL PIPE AND PROPOSED 5' GREEN TRAIL WHICH MEANDERS IN AND OUT OF THE EXISTING BUFFER.
- A SURFACE INFILTRATION DEVICE, PENDING SOILS INVESTIGATION TO DETERMINE IF SOILS ARE ADEQUATE. WHICH WILL BE RESTORED TO EXISTING CONDITIONS AFTER INSTALLATION.

A handwritten signature in dark ink, consisting of stylized, overlapping letters, likely 'W.R.L.', written above a horizontal line.

02.12.09

SUBMISSION REQUIREMENTS

An application for an environmental waiver must be submitted to the City Council for review prior to site plan approval. If staff concur that a waiver would cause a minor impact, the applicant may submit a letter to the City Council requesting that the Council delegate the authority to the Planning Commission to review and grant the waiver during the site plan review process.

☒ **A written statement describing the waiver request.**

Address all waiver criteria identified in Section 38 of the Environmental Standards for Development Regulation (see below).

☒ **A description of all proposed mitigation and compensation measures,** including type, size, location and description of the benefits associated with the proposed enhancements.

☒ **All appropriate plans,** e.g., NRI/FSD, site plan, etc.

Five (5) copies of full size plans folded to 8½" x 11" and one (1) reduced copy that fits on 8½" x 11"

☒ **Supporting documentation,** e.g., photographs, elevations, environmental studies, etc.

☒ **Fees** (see fee schedule).

WAIVER CRITERIA

According to Section 38 of the Environmental Standards for Development Regulation, waivers will only be granted upon:

- ☐ Completion of required approvals, rulings, permits, or waivers from all appropriate State and Federal findings agencies.
- ☐ A showing of good and sufficient cause and meeting the criteria outlined in Article III of the regulation, including:
 - ☐ Reasonable alternatives are not available.
 - ☐ Encroachment/disturbance is minimized.
 - ☐ Existing sensitive areas have been avoided.
 - ☐ The proposed use is consistent with the preferred use of the buffer.
 - ☐ The plan design provides full or partial compensation for the loss of buffer function from the disturbance.
 - ☐ There is measurable improvement in the effectiveness of the SWM system if it is placed in the buffer.
 - ☐ Excessive grading would be caused by using an uphill SWM location.
 - ☐ Severely degraded conditions exist within the buffer area that could not be improved if the SWM facility is outside the buffer area.
 - ☐ Man-made structures (e.g., farm ponds) exist in the buffer that can be converted to SWM use without excessive disturbance.
- ☐ A determination that failure to grant a waiver would result in unnecessary or undue hardship to the applicant.
- ☐ A determination that the granting of the waiver will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, or the creation of nuisances.
- ☐ A determination that there are no conflicts with existing local and State laws or ordinances.

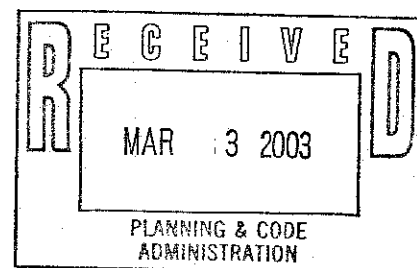
I have read and complied with the submission requirements and affirm that all statements contained herein are true and correct.

Applicant's Signature: _____

Date: _____

2/28/03

March 3, 2003



Honorable Sidney Katz, Mayor
and Members of the City Council
31 South Summit Avenue
Gaithersburg, MD 20877

Re: Environmental Standards Waiver Request
Hidden Creek Land Bay III
RCI Project No. 540-L2

Dear Mayor Katz and Members of the City Council:

As a part of the proposed improvements for Hidden Creek, Land Bay III, waivers are requested for impacts to the existing stream valley buffer as outlined in the letter dated 2/28/03 from Linowes & Blocher. In preparing the waiver request, we have worked closely with Linowes & Blocher and have reviewed and concur with the findings and conclusions in their 2/28/03 letter.

The waivers requested are the minimum necessary to allow for one connection to the existing sanitary sewer service, space for a proposed storm water management infiltration trench, outfalls for the two proposed storm water management facilities and space for the proposed five foot greenway trail. Specifically, the property owners are requesting the following waivers:

- Proposed storm water management outfall "A" and "B" – To minimize the grading impact along the stream valley buffer (SVB) the proposed grade for the entire project has been lowered to eliminate the need for retaining walls along the SVB and to allow for proposed slopes of no greater than 3:1. The SVB grading impacts are requested only for the outfall area of these facilities as the pond grading has no impact to the buffer, thereby minimizing the impact to the buffer. The existing wetland area and the wetland buffer will not be impacted by the grading of the outfalls or the facilities themselves. The proposed outfalls are located within the SVB to convey storm water into the existing stream so as not to degrade the downhill slopes of the facilities.
- Proposed sanitary sewer connection – To provide gravity sewer connection in accordance with WSSC design guidelines, a portion of this project is proposed to connect to the existing WSSC line within the SVB. The proposed location for this connection was field located with City staff to determine the location, which proposes minimal impact to the existing trees within this portion of the SVB. As sewer main lines are typically located within SVB's this proposed connection is consistent with WSSC sewer outfalls.
- Proposed five-foot greenway path – As part of the overall connectivity for this project, a proposed pathway connection from Mid County Highway meanders in and out of the SVB. The proposed location is desirable to allow future pedestrian access into the buffer without degrading the slopes due to the installation of the hard surface path.

- Stormwater management infiltration trench – As part of the overall stormwater management program for this site, groundwater recharge is proposed within the SVB. Pending soils analysis for the proposed location of the infiltration trench temporary grading is requested for this facility.

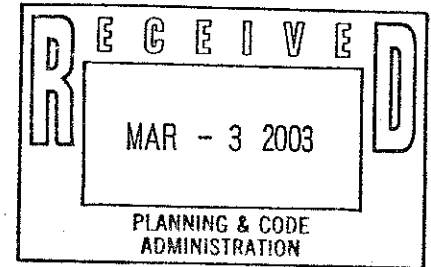
After reviewing the grading within the SVB and the existing floodplain it has been determined that granting of these waivers will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, or the creation of nuisances.

We have further determined that there are no conflicts with existing local and state laws or ordinances.

Sincerely,
Rodgers Consulting, Inc.



Frank G. Bossong IV, P.E.
Sr. Vice President
Director of Operations



March 3, 2003

Honorable Sidney Katz, Mayor
Members of the City Council
and Members of the City Planning Commission
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877

Re: Street Tree Wavier Request
Hidden Creek Land Bay III
RCI Project No. 540-L2

Dear Mayor Katz, Members of the City Council and Members of the Planning Commission:

On behalf of the applicants, Hidden Creek I, LLC, Sandler at Hidden Creek LLC, Hidden Creek II, LLC and Churchill Development Corporation, we are requesting a waiver to section 24-237, to allow ornamental trees in some portions of the proposed public road right-of-ways within Hidden Creek, Land Bay III project. The waiver would be limited to those areas that provide a 4'-0" green space between the face of curb and the proposed sidewalk, adjacent to parallel parking. The request for waivers is specifically outlined below and is in concurrence with the Linowes and Blocher letter dated 2/28/03.

- The proposed 54'-0" public road right-of-way within Hidden Creek, Land Bay III, provides significant parallel on-street parking opportunities. Where parallel parking is provided, the green space is typically limited to 4'-0" between the face of curb and the 5'-0" sidewalk. The landscaping within those areas is proposed to be achieved with the use of ornamental trees, which do not require as wide a planting strip as typical street trees. The standard street tree program will be provided in all other areas within the right-of-way where an 11'-0" green space is typically provided between the proposed curb and sidewalk. The parallel parking areas are predominately located in the fronts and sides of the proposed units and ornamental trees are considered desirable in those locations. Also, as discussed with City staff the ornamental tree canopy will not to be included in the calculations for street tree coverage as part of the Final Forest Conservation Plan.

Sincerely,
Rodgers Consulting, Inc.

A handwritten signature in cursive script, appearing to read "Frank G. Bossong IV".

Frank G. Bossong IV, P.E.
Sr. Vice President
Director of Operations

y:\540I2\waiver request\street tree waiver request.doc

LINOWES AND BLOCHER LLP

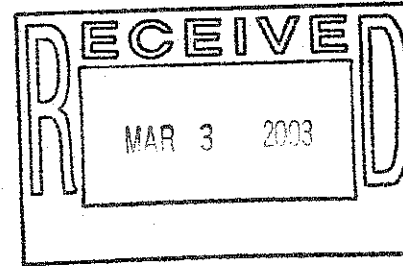
ATTORNEYS AT LAW

1010 Wayne Avenue, Tenth Floor
Silver Spring, MD 20910-5600
301.588.8580
Fax 301.495.9044
Website: www.linowes-law.com

February 28, 2003

Barbara A. Sears
Todd D. Brown
301.650.7057
301.650.7113

Honorable Sidney Katz, Mayor
and Members of the City Council
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, Maryland 20877



Re: Revised Request for Waiver of Road Code Provisions, Environmental and Landscaping Standards (Hidden Creek – Land Bay III)

Dear Mayor Katz and Members of the City Council:

On behalf of the Applicants, Hidden Creek I, LLC, Sandler at Hidden Creek LLC, Hidden Creek II LLC and Churchill Development Corporation, the purpose of this letter is to request a waiver of the City's road design criteria to permit use of a non-standard tertiary street section and reduced turning radii within Land Bay III (the "Property") to provide significant additional on-street parking and to enhance safety within the community. This letter also requests approval for land disturbing activities within the stream valley buffer. Lastly, this letter requests a technical waiver of the landscaping requirement to provide "Street Trees" on all public streets. This letter modifies and updates our prior letters dated September 19, 2003 and February 27, 2003. We also note that by separate letter Rodgers Consulting has confirmed the findings and conclusions expressed herein.

Road Code Waivers

Nonstandard Typical Section for Street B and Reduction of Centerline Turning Radii

As shown on the Amended Sketch Plan Internal Roads Plan and the Schematic Development Plan Internal Roads Plan ("Internal Roads Plan"), the typical section for "Street B" will consist of a non-standard design (two 10'-wide travel lanes and two 7'-wide parallel parking areas on both sides, where feasible). The design includes parallel parking on *both* sides of the road. The City's standard 26-foot paving section permits parallel parking on one side of the street only (two 9 ½'-wide travel lanes and one 7'-wide parallel parking area on one side). In addition, centerline turning radii have been narrowed slightly to reduce vehicle speed consistent with the design

Honorable Sidney Katz, Mayor
and Members of the City Council

February 28, 2003

Page 2

speed for the roadway. The proposed minimum 50-foot turning radii have been designed to provide adequate stopping site distance and sufficient lane width around curves to allow vehicles traveling in the opposite direction sufficient room to safely maneuver around larger vehicles they may meet. The location of the modified street design elements are shown on the Revised Schematic Development Plan Waiver Request Plan prepared by Rodgers Consulting ("Revised Waiver Plan") to be submitted under separate cover.

The traditional neighborhood design elements reflected on the Amended Sketch Plan and SDP deemphasize the importance of the automobile in favor of a more pedestrian friendly environment. As noted above, the design elements include parking on both sides of the street where feasible and more compact centerline turning radii. These elements act to slow traffic and encourage pedestrian use. By providing additional on-street and parallel parking opportunities and encouraging slower vehicle speeds, particularly near important internal street connections, pedestrian activity will be fostered in an environment that is comfortable to both pedestrian and driver.

The street paving width within Land Bay III will vary from a minimum 20-foot width which provides two 10-foot travel lanes and no on-street parking to a maximum 34 feet to permit parallel parking on *both* sides of the street. In this regard, the City's standard 26-foot tertiary street cross section accommodates two travel lanes (one in each direction) and a single row of parallel parking. The travel lanes within the standard section are each approximately 9 1/2 feet wide, leaving 7 feet on one side only for parallel parking. As shown on the Internal Roads Plan, the street cross section will provide parallel parking on *both* sides of the street where feasible and will have travel lanes that are a minimum 10 feet wide each. As noted above, the waiver will allow the Applicants to provide significant additional parking spaces dispersed within the project. Therefore, granting the waiver will significantly increase parking opportunities in the community while maintaining safe and adequate travel lane widths that are slightly wider than would be provided with the standard tertiary street design.

Additionally, the centerline radii at the locations shown on the Waiver Plan will be reduced to 50 feet. The modified design will accommodate a significantly larger centerline radius than found at projects such as Lakelands where a minimum 28-foot radius exists and is the same as the modified centerline radius approved by the Mayor and Council for Land Bay I of the Hidden Creek community. The requested turning radii will provide traffic calming benefits and will slow vehicle speeds consistent with the 15 mph design speed. In this regard, we note the design speed for the City's standard 100 foot centerline radius is 25 mph, a speed we believe is

Honorable Sidney Katz, Mayor
and Members of the City Council
February 28, 2003
Page 3

inconsistent with the pedestrian emphasis of the community. We further note the broader sweep of a larger turning radius would also reduce on-street parking opportunities.

Stream Valley Buffer Disturbance

Pursuant to Environmental Standards for Development Regulation 01-01, Section 38, this letter also requests approval from the Mayor and Council to disturb limited areas within the stream valley buffer. The disturbance will occur in the locations and maximum amounts specified on the Revised Waiver Plan. The Revised Waiver Plan contains specific details concerning stream valley buffer, tree disturbance and floodplain disturbance areas. Pursuant to agreement with City Staff, the Applicant will plant a total of 1.30 acres of reforestation to compensate at a ratio of 2:1 for the stream valley buffer areas disturbed for the stormwater management outfalls and sanitary sewer outfall. The calculations showing the associated impacts and agreed mitigation are enclosed (Attachment 1).¹

The stream valley buffer waivers are needed to construct the stormwater management and sanitary sewer outfalls shown on the Amended Sketch Plan and SDP. A waiver of environmental standards is also needed to construct the Green Trail within the stream valley as recommended by the Master Plan. Lastly, an environmental standards waiver is also needed to allow the Applicants to create a stormwater management recharge area within the stream valley buffer if soil conditions permit. City staff encouraged the Applicants to provide this facility and supports this request. No trees would be disturbed to create the stormwater management recharge area and the facility would be located underground. Once construction is completed, the land surface would be restored and stabilized, making it difficult to perceive any prior land disturbance.

Landscaping Standards Waiver – Street Trees

Section 24-237 of the Zoning Ordinance requires “street trees” to be provided on all public streets. The Amended Sketch Plan and SDP include “street trees” where sufficiently wide planting strips will exist and ornamental trees adjacent to all other public streets. We have been advised by City Staff that ornamental trees do not qualify as “street trees” under the City’s forest conservation technical manual. However, in order to provide the significantly increased on-street parking opportunities desired by the City, a reduced width (approximately 4’) planting strip is

¹ For a discussion of the impacts associated with the sanitary sewer outfall, see our July 17, 2002 letter to Jim Arnoult and Erica Shingara. All other parts of the July 17 letter have been superseded.

Honorable Sidney Katz, Mayor
and Members of the City Council
February 28, 2003
Page 4

provided with ornamental trees whenever "street trees" cannot fit. Importantly, as shown on the Amended Sketch Plan and SDP, trees, either street or ornamental, will be planted along all public streets. We therefore request a waiver of the technical requirement for "street trees" only along public streets.

In closing, the requested road code, environmental and landscaping standards waivers will enhance the form, function, safety and environmental aspects of the project. The road code and landscape standards waivers will allow significant additional on-street parking spaces and traffic calming measures to be provided consistent with good roadway design criteria while assuring an aesthetically pleasing streetscape. The result will be a better functioning and safer community.

Thank you for your consideration.

Very truly yours,

LINOWES AND BLOCHER LLP



Barbara A. Sears



Todd D. Brown

Enclosure

cc: Mr. David Humpton
Mr. Fred Felton
Mr. Howard Katz
Mr. Robert Larkin
Mr. Steven Sandler
Mr. Richard Braver
Mr. Thomas Hudson

Hidden Creek Land Bay III

SVB Area Impact:
Area impact within SVB due to SWM outfalls
and sewer main connection.

SWM "A":

On-Site =	2,320
Off-Site =	3,765
<u>sub-total =</u>	<u>6,085</u>

SWM "B":

On-Site =	3,126
Off-Site =	6,247
<u>sub-total =</u>	<u>9,373</u>

Sewer:

On-Site =	3,019
Off-Site =	9,886
<u>sub-total =</u>	<u>12,905</u>

Total = 28,363 S.F. area of disturbance
0.65 Acres of disturbance

Mitigation = 56,726 S.F. at 2:1 replacement
1.30 Acres at 2:1 replacement

